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Federal Court Strikes Down Bush Administration's Effort to Weaken Dolphin Protection

(San Francisco) Earth Island Institute's International Marine Mammal Project announced a major legal victory for dolphins today. Federal Judge Thelton Henderson, in the case Earth Island Institute v. Secretary of Commerce Donald Evans, noted that the US Commerce Department's weakening of the "Dolphin-safe" label on tuna cans illegally ignored scientific evidence and must be overturned. He ordered the issuance of a new rule prohibiting the use of a "Dolphin-safe" label on any tuna products caught by netting dolphins.

David Phillips, Director of Earth Island Institute, stated: "Thankfully, the courts have averted a disaster for dolphins." He continued: "Judge Henderson's ruling exposes the Bush Administration's deceit in ignoring its own scientists and caving in to Mexican demands to allow dolphin-deadly tuna back into US with a phony label."

Phillips continued: "Secret court documents proved that the government knew all along that netting dolphins was jeopardizing their very survival. Yet the Bush Administration still went ahead and ruled that tuna trade with Mexico was more important than dolphin lives".

In a 51-page decision handed down today, Federal District Court Judge Henderson rebuked the Bush Administration, stating that: "(T)he record convincingly demonstrates that the Secretary (of Commerce) nonetheless proceeded to sacrifice the integrity of the decision-making process by disregarding the best available scientific evidence in favor of political and diplomatic considerations."

On December 31, 2002, President Bush's Commerce Secretary Evans issued a "no significant adverse impacts" finding allowing Mexico, Colombia, and other tuna fishing nations to label their tuna as "Dolphin Safe" and sell it in the U.S., even if it was caught by the chasing, netting, and killing thousands of dolphins annually. More than 7 million dolphins have been killed in tuna nets since the late 1950's.

Earth Island Institute's federal lawsuit contended that the Bush Administration weakened the "Dolphin Safe" tuna label definition on the basis of trade politics, rather than science, as required by Congress.

Further, Earth Island took steps to obtain secret government memos demonstrating that the US agencies' own biologists knew dolphin populations were not recovering, as a result of the tuna fishery. Further, documents

revealed the intense pressure from the US State Department, Mexico and other tuna fishing nations to ignore the scientific conclusions.

Phillips stated: "More than 300 documents were withheld from the court record. The Bush Administration went to amazing lengths to prevent Earth Island and the court from obtaining these damaging revelations."

Plaintiffs in this case include: Earth Island Institute, Samuel LaBudde, The Humane Society of the United States, American Society for the Prevention of Cruelty to Animals (ASPCA), Defenders of Wildlife, International Wildlife Coalition, Animal Welfare Institute, Society for Animal Protective Legislation, Animal Fund, and Oceanic Society.

Legal services were provided by attorneys Josh Floum and Ariela St. Pierre with Holme, Roberts, and Owen LLP.